

Response to questions made during ASC and Subcommittee Meetings

Q1. Is the intent of Section 10608.48 “water conservation” through water measurement and subsequent pricing structure?

A1. The overarching intent of this legislation is water conservation and water use efficiency. Water conservation is highlighted in Chapter 1. General Declarations and Policy and elsewhere in SBx7-7. Section 10608 (e) declaring that “the success of state and local water conservation programs to increase efficiency of water use is best determined on the basis of measureable outcomes related to water use or efficiency”. Section 10608.4 requires implementation of specific efficient water management practices (EWMP). Section 10608.48 (a) and (b) require implementation of EWMPs. Water measurement and pricing structure are two critical EWMPs that have to be implemented.

Q2. Will Federal water contractors’ Water Management Plans (WMP) approved by the USBR satisfy the requirements of Water Management Planning under SBx7-7?

A2. For the purpose of WMPs Federal Water Management Plans are deemed to meet state WMP requirements.

Q3. Would approved Federal Water Management Plans satisfy Water Measurement requirements under SBx7-7?

A3. Federal guidelines require Federal water contractors to measure only Federal Water which is contractual water titled as “Class 1 water” As such, for the specific purpose of meeting SBx7-7 Water Measurement Requirements and to satisfy Water Measurement Requirements under SBx7-7, Federal contractors, will need to either:

1. Measure all water from all other sources of water (state and local, excluding groundwater) and include it in Federal Water Management Plans; or
2. Provide DWR a separate state water measurement to meet the water measurement requirements of SBX7-7 (section 10608.48 (a) (b) and Section 531.10). This option will be applicable and include measurements of the water which is non-Federal water and is 2000 AF or more delivered annually. Note Section 10608.48 (a) and (b) require water measurement and pricing structure and a report to DWR in a WMP and 531.10 requires annual report of farm-gate deliveries on a monthly basis.

Q4. Can DWR ask for or include additional information regarding Section 531.10 that helps avoid misuse of requested information and data by other parties?

A4. Yes, DWR may ask for and incorporate in the requested information and data, additional information. And DWR may request parties to explain any limitation of such data and information, and how its use should be limited.

Q5. Can the reporting date for 531.10 be moved from January to March to allow water districts to incorporate the previous calendar year's data?

A5. Yes.

Q6. Can DWR provide a flexible phasing, with time, of the regulation through which a final target (accuracy standard and performance outcome) is ultimately met? Or can DWR have a phased process through which a gradual water measurement program can be implemented?

A6. DWR will consider all options that are consistent with the intent of the Law

Q7. Can DWR adjust, increasingly restrictive targets (Accuracy Standards and performance measures), over time?

A7. DWR may consider these as long as they are consistent with the law.

Q8. Can DWR set a range of options that accommodate at all times the diverse climate, cropping patterns, pricing structures, water use, etc across the State?

A8. It is hard to develop a “Range of Options” that allow for flexibility to accommodate all conditions at all times. The range of options should allow measurement of water with sufficient accuracy to meet the requirements of SBX7-7. DWR may consider this consistent with applicable law.

Q9. Will DWR set a “Range of Options” and ” Accuracy Standards” now to be implemented for a time period with commitment to revisit the “Range of Options” and “Accuracy Standards” in some future years.

A9. No. DWR cannot commit itself to re-do regulations at some future time. However, regulations can be modified or changed by DWR as it deems appropriate through the rulemaking process at the Office of Administrative Law.

Q10. What is meant by the “in part” in Section 10608.48 (b)(2). It states: “Adopt a pricing structure for water customers based at least in part on quantity delivered. “

Does it mean that part of the pricing structure should be based on quantity delivered, or price itself should be based on the portion of water delivered? Does it mean that the price of water includes only quantity of water delivered and considers no other factors? Or actually, does the portion of price reflect the quantity of water delivered? If price is based on quantity of water delivered, how does this accommodate conjunctive water use that might occur after water delivery? What about water transfers occurring after water delivery?

A10. The pricing structure should be based on the quantity measured but may include other considerations to set the price of water. Adoption of pricing structure and policy are not part of this regulation.

Q11. Who is subject to Water Measurement requirements under SBx7-7?

A11.

1. All “Agricultural Water Suppliers” who deliver 2000 AF of water or more or provide water to 2000 acres or more of irrigated land are subject to the provisions of water measurement Section 531.10 and reporting to DWR annually. All agricultural water suppliers that have more than 10,000 acres of irrigated land are subject to section 10608.48.
2. Federal contractors that have, in addition to Federal water supply, other sources of water such as state, local, or any federal water that is not Class 1 water and is not subject to Federally required measurements, that amounts to 2000 or more AF of water annually, are subject to the provisions of the water measurement and reporting requirements.